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Vishwanath
S. Sherla

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE**

CRIMINAL WRIT PETITION NO.818 OF 2021

1) Ajay Mukund Vishwkarma
2) Rahul Pramod Maurya ... Petitioners

Vs.

1) State of Maharashtra
2) Sonu Gupta ... Respondents

Mr.Gurunath S. Satale with Mr.Babu Singh for the Petitioners
Mr.V.B. Konde-Deshmukh, APP, for Respondent – State
Mr.J.K. Agarwal with Ms.Preeti Bharadwaj for Respondent No.2

**CORAM: S.S. SHINDE &
MANISH PITALE, JJ.**

DATED: MARCH 11, 2021

ORAL JUDGMENT (PER S.S. SHINDE, J.):

1. Rule. Rule made returnable forthwith with the consent of the learned Counsel appearing for the parties and heard finally.

2. Learned Counsel appearing for the petitioners and respondent No.2 submit that the petitioners and respondent No.2 have amicably settled the dispute between them and have arrived at a settlement. On the basis of such settlement, it is prayed that the impugned First Information Report No.1352 of 2020 registered with the Sakinaka Police Station, Mumbai for the offences

punishable under sections 327, 323, 504 and 506 of the Indian Penal Code, may be quashed and set aside.

3. Respondent No.2 has filed an affidavit. Paragraphs 2 to 10 of the said affidavit read as under:

“2. I say that when the above said crime was registered accused named as RAHUL P. MAURYA was arrested. I say that I am major.

3. I say that when the above said crime was registered since that time we both know each other.

4. I say that the accused and I am residing in the same vicinity since birth and we grownup from our childhood together.

5. I say that the both the family of the complainant and accused family having cordial relation between both of the family and they are regularly visiting at each other's house.

6. I say that the accused and complainant are from the same vicinity from the native place.

7. I say That the dispute is amicably settled between both the party i.e. complainant and accused and he don't want to proceed further

8. I say that I am preparing this affidavit to produce before this Hon'ble Court to say that I have no objection if the said FIR would be quashed with the permission of this Hon'ble Court.

9. I say that I am filing this affidavit when I came to know that the said accused had approached this Hon'ble Court for quashing of FIR.

10. I say that this Hon'ble Court may allow the above named accused to quash this FIR on certain terms and conditions as it may deem fit and proper in the interest of justice."

4. The informant was present before this Court on 5th March, 2021. We had interacted with him on the said date and he stated that it is his voluntary act to enter into settlement and he has no objection in quashing of the impugned First Information Report.

5. The petitioners herein have filed an Affidavit cum Undertaking, wherein it is stated that they will not indulge into similar or alleged activities / offences in the future. They will take proper care and caution not to indulge in such activities.

6. In the light of the Affidavit filed by respondent No.2 and the Affidavit cum Undertaking filed by the petitioners, we are of the opinion that in view of the settlement, the petition deserves to be allowed. Since respondent No.2 has voluntarily consented for quashing the impugned First Information Report, no fruitful purpose will be served by continuing the investigation of the First Information Report No.1352 of 2020 registered with the Sakinaka Police Station, Mumbai for the offences punishable under sections 327, 323, 504 and 506 of the Indian Penal Code.

7. The Supreme Court in the case of **Giansingh v. State of Punjab and Another**¹ has held that the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. It is further held that as inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court.

1 2012 (10) SCC 303

8. In view of the above discussion and since the Petitioners and Respondent No.2 have amicably settled the dispute and to that effect, affidavit of Respondent No.2 is placed on record, we allow this Petition in terms of prayer clause (C), which reads as under :-

“C) That this Hon’ble Court be further pleased to quash the FIR being C.R. No.1352 of 2020 with the sakinaka police station against the present petitioners for the offence punishable u/s. 327, 323, 504, 506 of the Indian Penal Code.”

8. Rule is made absolute in the above terms. The Criminal Writ Petition stands disposed of accordingly.

10. All concerned to act on an authenticated copy of this order.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)